

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

vs.

DAVID L. JOHNSON,

Defendant.

09 Civ. 4826 (SCR) (LMS)

ORDER TO SHOW CAUSE

Upon the annexed Amended Complaint of plaintiff International Business Machines Corporation (“IBM”), the supplemental declaration of Mark Loughridge, executed on June 15, 2009, the declaration of Stephen Madsen executed on June 25, 2009, the declaration of Kevin J. Orini and its enclosures, executed on June 25, 2009, and the accompanying memorandum of law, it is hereby

ORDERED that defendant show cause before this Court at a hearing in Courtroom 633, United States Courthouse, 300 Quarropas Street, White Plains, New York, on June __, 2009 at _____.m., or as soon thereafter as counsel can be heard, why an order should not be entered pursuant to Federal Rule of Civil Procedure 65 granting a preliminary injunction enjoining defendant, David L. Johnson, from continuing employment with Dell Inc. (“Dell”) and disclosing IBM’s trade secrets (the “Trade Secrets Motion”), and granting such other and further relief the Court deems just and proper;

ORDERED that Plaintiff’s papers in support of the Trade Secrets Motion shall be served and filed by June __, 2009, Defendant’s responsive papers shall be served and filed by

June __, 2009, and Plaintiff's reply papers shall be served and filed by July __, 2009.; and it is further

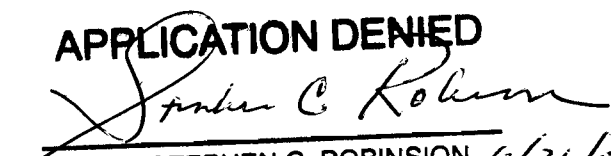
ORDERED that IBM shall effect personal delivery of a copy of this Order and supporting papers, upon Schulte, Roth & Zabel LLP, and by overnight mail to Morgan, Lewis & Bockius LLP, attorneys for defendant, no later than _____ p.m. on June __, 2009, which shall constitute due and sufficient service and notice thereof; and it is further

ORDERED that the provisions of the numbered paragraphs 1 through 8 of the June 4, 2009, Order in this matter, attached hereto as Exhibit B, shall continue in effect pending the resolution of the Trade Secrets Motion.

Dated: June __, 2009
White Plains, New York

Hon. Stephen C. Robinson
United States District Judge

*The Plaintiff, IBM's, motion for
an Order to Show Cause is
HEREBY DENIED*

APPLICATION DENIED

HON. STEPHEN C. ROBINSON 6/26/09